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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,178	08/07/2003	Richard J. Morris	1915.24US03	1767

7590 02/24/2004

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EXAMINER

LU, JIPING


ART UNIT

PAPER NUMBER

3749

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/636,178	Applicant(s) MORRIS ET AL.	
	Examiner Jiping Lu	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/14/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sells (U. S. Pat. 5,704,834) in view of Coulton et al. (U. S. Pat. 6,308,472).

Sells shows a roof vent comprising a vent housing with a plurality of stacked panels defining a plurality of flow passages 132 and a thin sheet of air permeable, water resistant material 38 disposed to restrict the wind driven precipitation to the interior of the structure to be ventilated. However, Sells does not show the thin sheet of air permeable, water resistant material located interior to the plurality of flow passages. Patent to Coulton et al teaches a roof ridge vent with air permeable, water resistant filter 44 located interior to the plurality of flow passages same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the

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time the invention was made to relocate the air permeable, water resistant filter 38 to the interior to the plurality of flow passage as taught by Coulton et al. in order to improve the ventilation efficiency.

4. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coulton et al. (U. S. Pat. 6,308,472) in view of Sells (U. S. Pat. 5,704,834).

Patent to Coulton et al. shows a roof vent comprising a vent housing with a plurality of flow passages (not numbered) and an air permeable, water resistant filter 44 disposed interior to the plurality of flow passages to restrict the wind driven precipitation to the interior of the structure to be ventilated. However, patent to Coulton et al. does not show a thin sheet of air permeable, water resistant filter and ventilating portions formed from three-ply material of corrugated plastic sheeting. Sells teaches a roof ridge vent with a thin sheet of air permeable, water resistant filter 38 and ventilating portions formed from a three-ply material of corrugated plastic sheeting same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the thin sheet of air permeable, water resistant filter 38 and ventilating portions 24, 26 of Sells for the filter 44 and ventilation portion 30 of Coulton et al. in order to improve the ventilation efficiency.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,450,882. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a roof ridge vent with a sheet of air permeable, water resistant material and ventilation portions constructed from a three-ply material of corrugated weatherproof sheet.

7. Claims 1-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,623,354. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a roof ridge vent with a sheet of air permeable, water resistant material and ventilation portions constructed from a three-ply material of corrugated weatherproof sheet.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sells (U. S. pat. 3,949,657), Waggoner (U. S. Pat. 5,022,314), Robinson (U. S. Pat. 5,095,810), Hansen (U. S. Pat. 6,149,517), Coulton et al. (U. s. pat. 6,298,613), Schmid (De 19821035 A1), Hofmann et al. (GB 2186898 A), Ingvarsson et al. (WO 84/02970), GmbH (DE 29912644 U1) all disclose a roof ridge vent.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 703-308-2354. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jiping Lu
Primary Examiner
Art Unit 3749

J. L.